

### **REMARKS**

Claims 32-36 and 39-41 are currently pending in this application. By this amendment, Claims 21-31, 37 and 38 have been canceled without prejudice in order to expedite prosecution of this application. Applicants hereby reserve the right to prosecute the subject matter encompassed by the canceled claims in a subsequently filed continuation application. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

In the Office Action, Claim 32 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 26 and 48 of co-pending Application No. 2006/0016853. Applicants have submitted with this response a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the above-identified rejection of Claim 32. Applicants respectfully submit that this rejection should be withdrawn.

In the Office Action, Claim 21 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claim 1 of co-pending Application No. 2007/0034670. Claims 21-31, 37 and 38 were also rejected under 35 U.S.C. § 103 over U.S. Patent No. 5,312,023 to Green ("Green") in view of U.S. Patent No. 5,865,361 to Milliman ("Milliman"). Applicants respectfully traverse these rejections. However, in order to expedite prosecution of this application, Claims 21-31, 37 and 38 have been canceled without prejudice and will be the subject of a subsequently filed continuation application. Accordingly, these claim rejections are moot.

Applicants gratefully acknowledge that Claims 33-36 and 39-41 have been indicated by

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the Examiner to be allowable if rewritten in independent form. In the statement of reasons for indication of allowable subject matter, the Examiner stated that "the arts of record fail to disclose a surgical stapler, wherein a pulley operatively associated with a dynamic clamping member to effect movement of the dynamic clamping member from a first position to a second position."

This claim recitation is provided in Claim 32. Applicants note that each of Claims 33-36 and 39-41 depends either directly or indirectly from Claim 32 which for the reasons identified above, Applicants believe to be allowable. Accordingly, Applicants do not believe that further amendment of Claims 33-36 and 39-41 is necessary at this time.

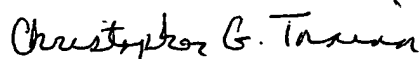
In view of the foregoing amendments and remarks, Applicants respectfully submit that all claims pending in this application, namely Claims 32-36 and 39-41, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, she is respectfully requested to contact Applicant's attorney at the number indicated below.

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Respectfully submitted,



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